

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SANDY FLETCHER MONTANO,

Plaintiff,

v.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH et al.,

Defendants.

CASE NO. 3:24-cv-05850-DGE

ORDER DENYING MOTION FOR
RECUSAL (DKT. NO. 32)

Presently before the Court is a motion for recusal filed by Plaintiff Sandy Fletcher Montano. (Dkt. No. 32.) The Court DENIES Plaintiff's motion and, pursuant to Local Civil Rule 3(f), directs the clerk to "refer [the motion] to the active judge with the highest seniority" in this district.

Motions for recusal are governed by 28 U.S.C. § 144 and 28 U.S.C. § 455. Recusal is required if a judge's impartiality might reasonably be questioned or if the judge harbors personal bias or prejudice against a party. 28 U.S.C. § 455(a), (b)(1). Such bias or prejudice must derive from an extrajudicial source. *Agha-Khan v. Mortgage Elec. Registration Sys., Inc.*, 2022 WL

501564, at *1 (9th Cir. Feb. 18, 2022); *Mayes v. Leipziger*, 729 F.2d 605, 607 (9th Cir. 1984). Under both 28 U.S.C. § 144 and 28 U.S.C. § 455, recusal of a federal judge is appropriate if “a reasonable person with knowledge of all the facts would conclude that the judge’s impartiality might reasonably be questioned.” *Yagman v. Republic Ins.*, 987 F.2d 622, 626 (9th Cir. 1993). This is an objective inquiry concerned with whether there is the appearance of bias, not whether there is bias in fact. *Preston v. United States*, 923 F.2d 731, 734 (9th Cir. 1992).

Plaintiff asks the undersigned to recuse himself due to unspecified evidence “detailing prior unethical and/or illegal conduct or conduct which gives [Plaintiff] a solid pretext to believe [the undersigned] cannot hear [this case] in a fair and impartial manner.” (Dkt. No. 32 at 3.) Plaintiff asks the undersigned to recuse himself due to a “lack of impartiality” and deliberate violations of the personal liberties of other litigants or behavior “inconsistent with that which is needed for full, fair, and impartial hearings.” (*Id.*)

Plaintiff cites no specific conduct by the undersigned that would support his allegations. The Court notes that at a scheduling hearing held on February 21, 2025, Plaintiff expressed dissatisfaction with the Court as the Court was attempting to explain the status of the case, and ultimately self-terminated his participation in the hearing. (Dkt. No. 31.) However, Plaintiff’s dissatisfaction with the Court does not provide a basis for recusal. *United States v. Azhocar*, 581 F.2d 735, 739 (9th Cir. 1978) (finding there was “no merit to [a party’s] claim of bias based on adverse rulings”); *Hayes v. U.S. Probation and Pretrial Services*, 2022 WL 494889, at *1 (affirming denial of recusal when the movant “[p]resent[ed] no evidence of bias from an extrajudicial source”); *United States v. Arant*, 2007 WL 3348443, at *1 (W.D. Wash. Nov. 9, 2007) (instructing that “[a] litigant cannot . . . use the recusal process to remove a judge based on adverse rulings”).

1 Ultimately, “a judge has as strong a duty to sit when there is no legitimate reason to
2 recuse as he does to recuse when the law and facts require.” *Clemens v. U.S. Dist. Ct. for the*
3 *Central Dist. Of California*, 428 F.3d 1175, 1179 (9th Cir. 2005) (internal quotation and citation
4 omitted). Plaintiff has not provided a legitimate reason to recuse. The Court therefore DENIES
5 Plaintiff’s motion for recusal and directs the Clerk to refer the motion to United States District
6 Judge Tana Lin, the active judge with the highest seniority.

7 Dated this 28th day of February, 2025.

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10 David G. Estudillo
11 United States District Judge
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